

201605067

Lennoxann Samerson

Claude Montout

Officers observed a hand-to-hand sale of drugs inside the Union Square subway station. Two officers arrested the seller, while a sergeant arrested the buyer. While the buyer was being walked to the Transit Bureau precinct within the station, the buyer attempted to swallow some of the drugs he had purchased. The sergeant and Officer Samerson forced the man to the ground, while PO Claude Montout rolled his baton across the man's lower leg in an effort to get him to comply. The man claimed that the officers banged his head against the ground and used a tool to pry open his mouth, and chipped a tooth in the process.

Officer Montout, who acknowledged he had used the baton across the man's leg, described it as a known compliance technique. The sergeant acknowledged bringing the man to the ground and stated that the man had willingly spit out the drugs. Officer Samerson stated that she did not interact with the man but only interacted with the seller. The EMT who transported the man to the hospital described PO Samerson as the officer holding the man, and the recording of the call for an ambulance included PO Samerson's voice while struggling with the man. While medical records and an ambulance call report were reviewed by the investigator, such records are not subject to FOIL and were not produced.

After reviewing the statements and the medical records, the CCRB substantiated allegations that the sergeant and PO Samerson used excessive force, and exonerated allegations of excessive force against Officer Montout because the compliance technique is within NYPD policy.

It further found that PO Samerson and PO Montout each made false statements in their CCRB interviews.

The NYPD provided instructions to PO Samerson and did not discipline PO Montout at all.

The CCRB allegations against PO Montout were redacted in a later letter from the district attorney.

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## Interview Details

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### Complainant/Victim: [REDACTED]

- [REDACTED] is a [REDACTED] year old Hispanic male, standing 5'9" tall, 185 pounds with brown hair and brown eyes.

### CCRB Testimony

On June 17, 2016, [REDACTED] was interviewed at the CCRB.

On June 1, 2016, at approximately 7:30 p.m., [REDACTED] was standing on the Downtown 4 platform in Union Square Station. [REDACTED] had transferred from the Downtown N/R to the Downtown 4. [REDACTED] was vague about the details leading up to his arrest, but said that officers later claimed to see him exchange drugs for currency with [REDACTED]. [REDACTED] denied this and said he had just entered the station before police approached him. When next asked if he had seen [REDACTED] before officers approached him, [REDACTED] said, "Yes – in the subway, but I don't know exactly where." When next asked if he met [REDACTED] on the Downtown 4 platform, [REDACTED] said he had met [REDACTED] in the upstairs central hub of Union Square Station, near where street performers perform. When asked if he exchanged drugs for money with [REDACTED], [REDACTED] said, "Well they're not making up a story." When asked to confirm if he exchanged drugs for money with [REDACTED], [REDACTED] then said, "No – things are complicated with that, I've stopped doing that years ago, I mean drugs were found, I had drugs on me, he had drugs on him" and, "I'm trying to say I did not sell the guy no drugs." [REDACTED] said that he spoke with [REDACTED] for a few seconds and fistbumped. [REDACTED] did not come down to the platform with [REDACTED]. [REDACTED] clarified that they shared a mutual drug dealer. When asked if this third individual was also in the Union Square station, [REDACTED] said, "Yeah but it doesn't matter because he's not nowhere around."

PO3 and PO4 approached [REDACTED] and said "We're gonna ask you questions, you're not under arrest yet, come upstairs, you'll be on your way home, put your hands in your pockets." PO3 and PO4 escorted [REDACTED] up the stairs from the platform and towards the stationhouse. [REDACTED] said the officers didn't let him "put his hands in his pocket, they're not letting me walk around, just keep walking, don't move, don't look at nobody, just go straight." No officer touched [REDACTED] during this initial conversation or the walk towards the stationhouse. [REDACTED] forgot his cane on the platform.

At the base of the slope in front of the transit stationhouse, approximately ten feet from the front entrance, [REDACTED] saw [REDACTED] handcuffed in front of the stationhouse entrance accompanied by officers. [REDACTED] said that while officers were escorting him from the platform to the stationhouse, he consumed two bags of heroin out of their sight. [REDACTED] said that he was holding these two bags in his hand during the entirety of his interaction with officers up to this point. Either PO3 or PO4 said, "It's in his mouth." When asked if something was in his mouth when the officer said this, [REDACTED] said, "No." [REDACTED] said, "They claimed that I threw something in my mouth and that I was eating it." [REDACTED] claimed that "drugs were found on the floor" before he was taken to the ground "in the general area of where we were at." When asked how these drugs came to be on the floor, [REDACTED] said, "I guess somebody threw them there" and "I can't answer that because I don't know what they found on him," referring to [REDACTED]. When asked if he had put something in his mouth, [REDACTED] said, "I had something in my mouth but I couldn't eat what they found." When asked if any drugs were retrieved from his mouth, [REDACTED] said, "They said I swallowed it."

PO3 and PO4 used their hands on [REDACTED] upper body to place him facedown on the floor. PO3, PO4 and [REDACTED] were ten feet from the transit stationhouse at the bottom of the slope in front of the stationhouse's main entrance. [REDACTED] was not injured from striking the ground. PO3 and PO4 used their knees and legs to pin [REDACTED] to the ground. Either PO3 or PO4 handcuffed [REDACTED]. PO Samerson was only a few feet from [REDACTED] when this altercation started. PO Samerson "secured the area" by issuing commands to nearby commuters to, "Get back, keep moving."

PO Samerson took a metal rod and inserted it into a gap from a missing tooth on the right side of his lower jaw. PO Samerson levered the metal rod horizontally, left and right, repeatedly in an attempt to force [REDACTED] to open his mouth. [REDACTED] "felt his teeth cracking" and spit out a segment of his right molar immediately to the rear of the gap onto the ground. PO3 and PO4 said to [REDACTED] "You trying to kill yourself? Spit it out! Spit it out!"

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## Interview Details

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█████ said, "You're breaking my teeth, there's nothing in my mouth." Simultaneously, PO2 extended a baton and rolled the baton horizontally over the outside of █████ right ankle for three minutes "like a rolling pin." █████ started screaming, "Never felt pain like that." Two weeks later █████ ankle still displayed cuts and scarring in this area. PO3 placed continuous pressure on █████ left lower back by kneeling his knee with all his weight. █████ said this action bruised his ribs and even two weeks later it pained him to sneeze. █████ estimated that five officers total were involved in this altercation. █████ had limited visibility as to officer actions and identities as he was facedown on the ground and without his glasses. █████ said that he was bleeding from his mouth as a result of the rod inserted into his mouth but could not see any blood on the ground. When asked if he got any blood on his clothing, █████ said he did not remember.

Officers picked up █████ and took him to the stationhouse. █████ was then able to identify PO2 as the officer who rolled the baton on his ankle as he "had the baton in his hand." No other officers were holding batons. █████ right ankle was swollen, and he requested to see a doctor. █████ was taken in an ambulance to a hospital, and could not remember the name of the hospital. The ambulance ride lasted a few minutes and █████ believed he was taken to a hospital. █████ told the EMT that his ribs were hurt, that he had asthma, and requested an x-ray. At the hospital, █████ was told by a doctor, "You're alright, everything's alright." No pictures or x-rays were taken of █████ injuries, no medication was prescribed and no injections were administered. █████ was discharged from the hospital. In Central Booking █████ was placed in a special cell because he had tried to ingest the drugs and officers were worried he would kill himself. █████ was released from court on June 3, 2016. █████ later went to the stationhouse and retrieved all of his personal items except for his phone and currency. █████ was not given vouchers for these items, but was told the DA had these items.

█████ summarized his injuries as bruising and bleeding in his mouth, a chipped tooth, swollen lips, swelling and bruising on his left rib, and a largely swollen right ankle. █████ did not take any photos of his injuries after he was released or seek any medical treatment in regards to these injuries. █████ noted that he had been arrested numerous times, insisted that he'd never resisted arrest before and had never had his mouth pried open in this fashion. █████ made repeated reference to his two hip replacements and drug addiction. █████ did not see █████ again after seeing him handcuffed in the stationhouse and did not know where he went as they were not processed together. █████ told investigators that he takes "a lot of health medication, mental health stuff, so my memory's terrible." When asked to recall timeframes during the incident, █████ said, "It felt like an hour but it was only a couple of minutes, I was delusional."

PO Samerson – female, Caribbean/dark-skinned, late 20's-mid 30's, 5'9", 150 lbs, brown hair, slight accent

PO2 – male, Hispanic/black, 5'6"/5'7", 180 lbs, jacket, low-cut brown hair, plainclothes

PO3 – male, Asian, 5'6", detective, fit build, red striped polo shirt, plainclothes

PO4 – male, white, late 20's-early 30's, 5'9", average build, vest, uniformed

PO5 – male, white

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## Interview Details

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### Subject Officer: SERGEANT SON CAO

- *Sgt. Son Cao, [REDACTED] years-old at the time of the incident, is an Asian male who is 5'6" tall, weighs 185 pounds, and has black hair and brown eyes.*
- *On June 1, 2016, Sgt. Cao worked from noon to 8:34 p.m. He was assigned to anti-crime working with PO Samerson and PO Montout, and dressed in uniform. He was working on foot.*

### Memo Book

On June 1, 2016, at 7:20 p.m. Sgt. Cao observed a male on the southbound 4/5/6 platform in Union Square subway station. Sgt. Cao identified himself to this man and asked him to follow, and the man complied. When Sgt. Cao and the man reached the ramp to the stationhouse, the man suddenly reached into his right cargo pants pocket for an unknown thing. Sgt. Cao immediately attempted to prevent him by putting him to the ground. The man was able to put something in his mouth. The man then prevented Sgt. Cao from handcuffing him by lying on his left arm. The object in his mouth was recovered in front of Transit District 4 and was one medium size Ziploc bag containing 40 decks of heroin. The man was taken to the [REDACTED] for observation.

### CCRB Statement

On June 1, 2016 at approximately 7:47 p.m., Sgt. Cao and PO Samerson were standing in the mezzanine of the Union Square subway station, by the N/Q/R train platforms. PO Samerson observed a hand-to-hand transaction between [REDACTED] and [REDACTED] who were standing in the mezzanine about fifty feet away from the officers. She told Sgt. Cao, pointed to who she saw make the transaction, and asked him what they should do about it. The officers parted—PO Samerson followed [REDACTED] and Sgt. Cao [REDACTED]. Earlier in the interview, Sgt. Cao said he then began to “canvas” the station for [REDACTED]. Later, when asked if [REDACTED] walked from the mezzanine to the 4/5/6 train platform after PO Samerson pointed him out, Sgt. Cao said yes.

Sgt. Cao asked PO Krmoyan to assist him, because he was in uniform while Sgt. Cao was in plainclothes, and the two officers approached [REDACTED] on the southbound 4/5/6 train platform. Sgt. Cao identified himself as a police officer, showing his shield, and then asked [REDACTED] to please come with him. [REDACTED] complied and Sgt. Cao began walking [REDACTED] back to his command, Transit District 4. At that point, [REDACTED] was not considered under arrest. Sgt. Cao explained that it was determined [REDACTED] exchanged a controlled substance for U.S. currency when PO Samerson made the observation of a hand-to-hand transaction between him and [REDACTED] as stated in the OLBS arrest report. He did not place [REDACTED] under arrest immediately because he wanted to gain more information from him. Sgt. Cao asked [REDACTED] to him to come with him to the Transit District 4 command office so he could place [REDACTED] into custody inside of the district.

PO Krmoyan walked in front of [REDACTED] and Sgt. Cao walked behind [REDACTED] in full observation of him. As they approached the ramp leading up to the command office, Sgt. Cao observed [REDACTED] make a sudden movement with his right hand and reach into his right cargo pants pocket. Sgt. Cao initially told investigators he reached into [REDACTED] back pocket. Sgt. Cao grabbed [REDACTED] right hand from inside his pocket and told [REDACTED] he didn't know what he was grabbing. Sgt. Cao put [REDACTED] to the ground himself without assistance from PO Krmoyan by grabbing [REDACTED] right wrist and pushing him to the ground. Sgt. Cao told investigators he has Judo training, and that his bringing [REDACTED] to the ground happened so fast he could not describe the methods used. Sgt. Cao went to the ground with [REDACTED]. Sgt. Cao was on top of [REDACTED] behind his back trying to hold his right arm when Sgt. Cao saw a closed Ziploc bag in [REDACTED] mouth and “clearly” saw [REDACTED] biting the bag in an attempt to swallow it. Earlier in the interview Sgt. Cao said that at that point “whatever [REDACTED] had in his hand he put in his mouth” and he could not recall whether [REDACTED] was able to free himself from his restraints in order to put the object in his mouth. He said it was possible [REDACTED] head hit the ground but did not see it happen. Sgt. Cao issued at least two commands for [REDACTED] to stop resisting.

Sgt. Cao told PO Krmoyan to please go get help from inside the command office—about fifteen feet away—and get an ambulance to respond to the district because, Sgt. Cao explained, they didn't know at that point what [REDACTED] had swallowed or if he had swallowed anything yet. Sgt. Cao also made a radio call but he didn't know



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## Interview Details

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whether it went through. Sgt. Cao tried to handcuff [REDACTED] who was “tensed up,” laying on his left arm, and therefore resisting arrest. Sgt. Cao told [REDACTED] to turn around and give him his left arm. [REDACTED] refused and did not respond verbally to Sgt. Cao’s commands in any way. Sgt. Cao was not able to place a handcuff on [REDACTED] right arm. [REDACTED] was in the tensed up position lying on his left hand for about thirty seconds. Within a few seconds of Sgt. Cao calling for help, PO Montout arrived and saw that [REDACTED] was resisting arrest. PO Montout applied pressure with the asp to [REDACTED] ankles. Sgt. Cao said he did not request that compliance technique from PO Montout but described it as taught in the Police Academy: Take hold of an asp or straight baton by either end and roll the center of the asp over an ankle, applying direct pressure. Sgt. Cao did not see PO Montout use this technique but assumed he did so when he saw that PO Montout had his asp out and was “at” [REDACTED] ankles. Sgt. Cao did not see PO Montout use the asp in any way and he did not remember whether PO Montout issued verbal commands to [REDACTED]. Sgt. Cao did not remember how long it took for the ambulance to arrive from the moment he placed the call over the radio.

PO Krmoyan arrived within seconds of PO Montout arriving as Sgt. Cao was on top of [REDACTED] and PO Montout was behind him at his ankles. Earlier in the interview, Sgt. Cao said that no part of his body besides his right arm was touching [REDACTED] at that point. Later, when asked if any part of his body were used to keep [REDACTED] to the ground, Sgt. Cao said he “might have been on top of him.” When asked if he used any part of his lower body to restrain [REDACTED] Sgt. Cao said he only used his weight, and then said he was pinning him down with his stomach. Sgt. Cao does not remember any actions PO Krmoyan took. Sgt. Cao didn’t see any other officer use the asp-to-ankle compliance technique or have their asp out.

Sgt. Cao, PO Krmoyan, and PO Montout were able to handcuff [REDACTED]. PO Samerson did not assist in handcuffing. [REDACTED] spit out a clear Ziploc bag, about two by four inches big, filled with forty decks of heroin. Sgt. Cao nor any other officers he saw made an effort to remove the object from his mouth. Sgt. Cao did not know whether [REDACTED] spit the object from his mouth as a result of the asp-to-ankle compliance technique. Sgt. Cao did not see any officer try and remove the object from [REDACTED] mouth nor at any point did he see an officer use their asp to try and remove the object. Neither Sgt. Cao nor any other officer took steps to recover the drugs from [REDACTED] mouth. At no point did Sgt. Cao notice [REDACTED] had a tooth missing.

At some point, [REDACTED] was complaining of “pain,” which Sgt. Cao attributed to the possibility [REDACTED] had just ingested drugs—the reason why he was being taken to the hospital. Sgt. Cao did observe [REDACTED] complain of pain but found the information on his pedigree sheet. Earlier in the interview, Sgt. Cao said he did not know of [REDACTED] complaining of pain to him or any other officer. Sgt. Cao said [REDACTED] could have either overdosed or choked on the bag he was trying to swallow.

Sgt. Cao was led to believe [REDACTED] ingested drugs because “whatever [REDACTED] spit out of his mouth” was forty individually packed decks of heroin. Sgt. Cao believes [REDACTED] may have ingested some of the heroin he didn’t swallow because he “frantically” tried to bite the bag he was trying to swallow—which contained the individually-packed heroin—when he and Sgt. Cao were on the ground. Sgt. Cao believed the attempts he observed [REDACTED] make to bite and swallow the bag might be an attempt at self-harm because “nobody would swallow drugs.” [REDACTED] did not complain of injuries to his lips or mouth. Sgt. Cao did not see any officer strike [REDACTED] in the mouth or put their asp in or near his mouth.

When [REDACTED] was taken back to the cells, an initial search was done again and three additional decks of heroin were found in his pocket. PO Sanchez took [REDACTED] to the ambulance from the command office and he was taken to [REDACTED] for observation. Regarding the MOS Force section of the TRI report, Sgt. Cao checked the box for “unintentional” because it was not his intention to hurt [REDACTED].

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## Interview Details

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### Subject Officer: POLICE OFFICER LENNOXANN SAMERSON

- *PO Lennoxann Samerson, [REDACTED] years old at the time of the incident, is a black female who is 5'6" tall, weighs 160 pounds, and has black hair and brown eyes.*
- *On June 1, 2016 at approximately 7:47 p.m. PO Samerson worked from 12:00 p.m. to 8:35 p.m. She was dressed in plainclothes, assigned to Anti-Crime, and worked with PO Montout and Sgt. Cao.*

### Memo Book

On June 1, 2016, at 7:20 p.m. PO Samerson observed a male Hispanic approximately 60 years old walk by 'high wheels' at A34 talking loudly on phone calling out the name '[REDACTED]'. The male Hispanic walked in both directions in the mezzanine and went towards the 4/5/6 passageway. At 7:30 p.m. PO Samerson saw the same male Hispanic walk past PO Samerson this time with a tall male Black approx. 6 feet, 50-60 years old. Both walked to the end of the mezzanine toward the N/Q/R stairs. PO Samerson observed the male Hispanic and male Black do a hand-to-hand transaction. PO Samerson saw the male Hispanic give something to male Black, the male Black look at object in his hand, and the male Hispanic check USC given to him by male Black. Both men walked together back past the high wheels passageway. At 7:31 p.m. PO Montout assisted PO Samerson with stop of male black, upon stopped male Black observed to still have object given to him by male Hispanic in his left hand, which was recovered by PO Montout. The male Black stated the object in his hand was heroin, and the defendant was placed under arrest pending further investigation. At 7:32 p.m. the male Hispanic was stopped by Sgt. Cao, who observed that the male Hispanic began to resist arrest. PO Montout and PO Krmoyan rendered aid. At 7:30 p.m. at the Transit District 4 desk, [REDACTED] stated to PO Samerson that he bought heroin from male Hispanic for ten dollars. At 7:47 p.m., police are holding two suspects in custody, [REDACTED] charged with criminal sale of controlled substance and [REDACTED] for criminal sale of controlled substance. At the Transit District 4 desk, PO Samerson observed PO Montout search [REDACTED] and remove from defendant's right shorts pocket a Ziploc bag with eight and a half Xanax, one pink bag of heroin, two with G- Star raw, and fifty-five dollars USC. PO Montout recovered additional \$760 from the defendant's wallet plus ten dollars in sentimental 2-dollar bills which he vouchered for safekeeping. PO Montout conducted an inventory search and recovered a forty deck of heroin from the Ziploc bag recovered when the defendant spat it from his mouth in front of the command. The deck was packaged in pink paper similar to which was recovered from defendant [REDACTED]. An inventory search of defendant Heron's bag was conducted and PO recovered from a grooming case in his blue duffel bag a brown bottle containing one Viagra pil. Arrest # for [REDACTED]

[REDACTED] / Duffel bag, headphone with case, sunglasses, fanny pack, mp3 player, cell phone, and charger / pen, assorted papers, flashlight, Xacto knife, radio gloves, t-shirt, pen, iPhone white / Voucher # [REDACTED] safekeeping / twenty five-dollar bills, \$100 USC / Arrest #2 [REDACTED]

[REDACTED] / Voucher arrest evidence voucher # [REDACTED] / Forty-one alleged heroin, two G-star roll deck heroin, nine Xanax / Voucher # [REDACTED] / five one-hundred dollar bills / four fifty-dollar bills, four twenty dollar bills, two ten dollar bills, two five dollar bills, five one dollar bills / total \$815 / Safekeeping voucher # [REDACTED] / sunglasses with case, cellphones 1 LG two Motorola, hat chargers, lotion, lip balm, condom, box Newports, diabetic testing kit, keys, wallet, timer, backpack, seven metro cards, benefit card, New York State and New York City IDs. PO Samerson's tour ended at 2:40 a.m. on June 2, 2016.

### CCRB Statement

On June 1, 2016 at approximately 7:47 p.m. PO Samerson was on patrol in plainclothes at 14-St Union Square, standing in the mezzanine area of the station. She observed [REDACTED] on the phone, talking loudly, and calling out '[REDACTED]'. PO Samerson stayed in the same area and later observed [REDACTED] return walking with [REDACTED] and [REDACTED] stood a few feet away from PO Samerson and she had a clear view of [REDACTED] putting his hand into his cargo shorts pocket and give something to [REDACTED]. PO Samerson did not recall

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## Interview Details

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which pocket [REDACTED] reached into. [REDACTED] opened his hand and looked into it. PO Samerson observed [REDACTED] check money and put it in his pocket. She did not know where [REDACTED] took the money from or who gave it to him. [REDACTED] and [REDACTED] walked together for a few feet and then separated, heading down two different passageways. PO Samerson put a call out when she first observed the hand-to-hand. When Sgt. Cao arrived, PO Samerson motioned toward [REDACTED] and [REDACTED] told him that they were doing a hand-to-hand.

PO Samerson went with PO Montout for [REDACTED] and Sgt. Cao separated from them and went for [REDACTED] alone. After she saw [REDACTED] leave the mezzanine, the next time PO Samerson saw him was near the front of the Transit District 4 stationhouse, with PO Montout. At the corner of a "little wall section" at the beginning of the ramp leading to the stationhouse with [REDACTED] in custody, she saw [REDACTED] PO Krmoyan, and Sgt. Cao walk by her. PO Samerson did not know whether [REDACTED] was in handcuffs. (Earlier in the interview, PO Samerson said she saw [REDACTED] in handcuffs when he and Sgt. Cao were walking towards the command.) Within seconds she heard a noise, and a "commotion" that sounded like a "scuffle."

PO Montout told PO Samerson to stay where she was and went to help Sgt. Cao and PO Krmoyan. Sgt. Cao, PO Krmoyan and [REDACTED] were a couple of feet away from PO Samerson but she couldn't see them because she was behind a small wall—in the "little corner" with [REDACTED] far from the door of the stationhouse. (Earlier in the interview, PO Samerson said she stood and waited "because [REDACTED] started to resist arrest.") She was the only officer with [REDACTED] during that time.

PO Samerson did not see any of the actions the officers took to control [REDACTED] and did not participate in the "scuffle" or the handcuffing of [REDACTED] nor had any physical contact with him. PO Samerson estimated it took five minutes from when PO Montout told her to stay where she was to when PO Montout returned with Sgt. Cao, PO Krmoyan, PO Montout, and [REDACTED] PO Samerson did not hear [REDACTED] complain of any injuries or appear to be visibly injured in any way. PO Samerson was at the desk when EMS arrived for [REDACTED] At that point, the only injury or pain he mentioned was that he had diabetes. As per procedure officers called an ambulance because [REDACTED] had tried to swallow the narcotics. She did not observe him do this and was only told of it by other officers.

When presented with the entry concerning [REDACTED] in the command log which states that he was "claiming injury," PO Samerson said she never saw it before and did not make those entries. Asked if the information helped her recall more, she said that when she got to the stationhouse [REDACTED] was going to the hospital but she did not know the details nor did she learn of injuries [REDACTED] sustained from other officers. Sgt. Cao and PO Montout told PO Samerson that [REDACTED] "put the stuff in his mouth" and then he spat it out. No officer described to PO Samerson what force he had to use to apprehend [REDACTED]

PO Samerson did not see any officers with their asp out any point nor did she have her asp out. Later in the interview when PO Samerson was asked why she was [REDACTED] arresting officer, she first said she didn't understand the question, then said she never touched [REDACTED] and then said that she was assigned to be his arresting officer.



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## Interview Details

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### Subject Officer: POLICE OFFICER HRACHYA KRMOYAN

- *PO Hrachya Krmoyan is a white male, standing 5'7" tall and 175 lbs, with black hair and brown eyes.*
- *On June 1, 2016 worked 0705x1540. He was assigned to prisoner transport ("hospitalized prisoner") at Transit District 4. He was dressed in plainclothes. He did not say with whom he was working.*

### Memo Book

On June 1, 2016, at 7:25 p.m. PO Krmoyan assisted Sgt. Cao with an arrest. 7:40 p.m. was the end of PO Krmoyan's tour.

### CCRB Statement

On June 1, 2016, PO Krmoyan was standing in the mezzanine area of 14 St-Union Square subway station, by the southbound platform, when Sgt. Cao approached him and asked him to assist him in looking for an individual. PO Krmoyan did not know any information about the individual, where Sgt. Cao got the information about the individual or whether he got the information from PO Samerson.

PO Krmoyan and Sgt. Cao canvassed the station and found the individual on the northbound 6 train platform. The investigation identified this man as [REDACTED]. Sgt. Cao approached [REDACTED] and PO Krmoyan did not recall what Sgt. Cao said to [REDACTED] but said that Sgt. Cao asked [REDACTED] to come with him. [REDACTED] was "compliant at first."

Sgt. Cao and PO Krmoyan walked [REDACTED] back to the command—[REDACTED] walking in the middle and Sgt. Cao and PO Krmoyan on either side. PO Krmoyan did not remember who was on the right and who was on the left, nor did he remember how far each officer was in relation to [REDACTED].

By the gates, at the bottom of the slope in front of the Transit District 4 command stationhouse, PO Krmoyan observed [REDACTED] reach into his right-side pocket. PO Krmoyan said he was standing then at the right side of [REDACTED]. He did not recall whether [REDACTED] was wearing cargo shorts or whether he reached into his front or back pocket. [REDACTED] "probably took something out" at which point PO Krmoyan grabbed his forearm when his hand was out of his pocket. PO Krmoyan could not see whether there was an object that in [REDACTED] hand because it was closed in a fist. PO Krmoyan did not issue any commands to [REDACTED] at this time. He did not recall where Sgt. Cao was and did not alert him that [REDACTED] had reached into his pocket. [REDACTED] pulled very hard and pulled his arm out of PO Krmoyan's hands and then left across his person away from PO Krmoyan, who was on his right side. PO Krmoyan went into the command to go get assistance without Sgt. Cao. PO Krmoyan explained he did this because it would take too long to go over the radio. At that point PO Krmoyan was not very far from the front of the stationhouse; he did not remember the exact distance.

He was not able to observe the next action Sgt. Cao took because he was inside the command. Earlier in the interview, PO Krmoyan said that Sgt. Cao tried to "apprehend the suspect" before he left to get assistance. PO Krmoyan said did not know whether [REDACTED] was still standing before he entered the command because his back was facing him. When asked by counsel, PO Krmoyan said that when he was going to get assistance, Sgt. Cao was behind him "trying to restrain" [REDACTED]. When asked what actions he was taking to restrain him, PO Krmoyan said that [REDACTED] was being uncooperative. PO Krmoyan could not describe mechanically or verbally how the individual was being uncooperative. PO Krmoyan did not recall [REDACTED] saying anything or Sgt. Cao issuing any commands at this point.

PO Krmoyan opened the door to the stationhouse and yelled "Sgt. Cao needs help." PO Krmoyan saw PO Samerson in front of the front desk—he did not recall whether she was with another individual or if she was escorting another arrestee. PO Krmoyan did not recall whether PO Samerson came out of the stationhouse to assist. Within a few seconds, PO Montout was assisting Sgt. Cao. PO Krmoyan left the stationhouse and Sgt. Cao asked him to call for an EMS for an emotionally disturbed person. From PO Krmoyan's perspective, the individual had made a "sudden movement" that could have indicated he was an EDP, but because he was not an expert on EDPs was not able to tell. Sgt. Cao did not explain to him why the individual was an EDP and PO Krmoyan did not ask him.



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## Interview Details

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After calling EMS, PO Krmoyan saw a watch-crowd condition walked down the ramp, and tried to make sure the crowd didn't get too big outside the command. PO Krmoyan described the crowd condition as "people curious, looking [to see] what's going on, standing on stairs, making half-hysterical...just curious you know." He told people to clear the stairs and let people through with verbal commands to make sure the stairs and passageway were clear. He stood with his back facing Sgt. Cao and PO Montout, about five feet away from them.

When asked if he had heard from Sgt. Cao, PO Montout, or any other officer concern that [REDACTED] had swallowed an object, PO Krmoyan said his back was turned to them and that he did recall hearing about something in his hand but was not sure what it was. PO Krmoyan did not recall whether Sgt. Cao or PO Montout issued any commands to [REDACTED] as he was turned away from them and yelling at the crowd. When asked if [REDACTED] was on the ground at this point, PO Krmoyan said his back was turned to [Sgt. Cao, PO Montout and [REDACTED] so he didn't see what they were doing. When asked if when he was walking from the stationhouse towards them if he could observe whether the individual was on the ground, PO Krmoyan said that he saw [REDACTED] on the ground. PO Krmoyan was not sure whether any officer was with [REDACTED] on the ground but said that Sgt. Cao was next to [REDACTED] and close to him. He was not sure whether Sgt. Cao was using any part of his body to pin [REDACTED] PO Krmoyan could not tell whether PO Montout was using any part of his body to pin [REDACTED] because he was still controlling the crowd. PO Krmoyan was not sure whether PO Montout had his baton out of his holster or if he used a baton in any way. PO Krmoyan could not tell whether any officer drew or used their asp during the incident because he was not facing them and did not recall ever seeing any officer draw or use their asp.

When EMS arrived, PO Krmoyan was not sure whether [REDACTED] was outside or inside the stationhouse. He overheard something about [REDACTED] having narcotics. He did not hear if [REDACTED] put something in his mouth. PO Krmoyan did not assist in the arrest of [REDACTED] He did not recall whether any other officers besides Sgt. Cao and PO Montout assisted in the arrest of [REDACTED]

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## Interview Details

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### Subject Officer: POLICE OFFICER CLAUDE MONTOUT

- *PO Claude Montout, [REDACTED] years old at the time of the incident, is a black man who is 5'6" tall, weighs 190 pounds, and has black hair and brown eyes.*
- *On June 1, 2016, PO Montout worked from 12:00 p.m. to 8:35 p.m. He was dressed in plainclothes, assigned to foot post 7 in Union Square, and worked with PO Samerson.*

### Memo Book

On June 1, 2016, at 7:31 p.m. PO Montout assisted PO Samerson with one stop at Union Square subway station, a male black 6'2" in regards to criminal sale of a controlled substance. The male black did have in his left hand a pink paper and stated to an officer that "It was heroin." At 7:36 p.m. PO Montout assisted Sgt. Cao with handcuffing an unruly subject at the ramp in front of Transit District 4 Command. The male Hispanic was not cooperative and refused to be handcuffed, the baton was used to pressure on the defendant's ankle to attempt compliance by defendant. The defendant was handcuffed and contained by minimal force with no injuries sustained but pain to ankle. The defendant was removed to [REDACTED]. At 7:48 p.m. PO Montout assisted PO Samerson with the two defendants at the Transit District 4 desk search [REDACTED]. A clear bag was removed from the defendant's pocket, and he did state to an officer that "It's heroin." The object was removed from the right side shorts pocket inside, which contained white 8 ½ alleged Xanax pills and a deck of rolled pink paper containing alleged heroin in a rubber band. At 8:40 p.m. PO Montout prepared a use of force form signed off by Sgt. Cao.

### CCRB Statement

PO Montout was interviewed at the CCRB on July 27, 2016.

On June 1, 2016, at approximately 7:31 p.m., PO Montout was conducting patrol on the mezzanine area of the Union Square train station with PO Samerson and Sgt. Cao when PO Samerson informed PO Montout that she had observed two men engaged in a drug transaction. PO Samerson told PO Montout that she would like to stop these two men. PO Montout said, "Okay, let's go." Aside from PO Samerson, PO Montout, and Sgt. Cao, there were no other officers present at this time.

The buyer in the drug transaction, identified by the investigation as [REDACTED] and the seller in the drug transaction, [REDACTED] walked in two different directions. PO Montout and PO Samerson followed [REDACTED] while Sgt. Cao followed [REDACTED]. PO Montout did not see where Sgt. Cao and [REDACTED] went exactly. PO Montout and PO Samerson followed [REDACTED] for about two minutes to the other side of the station. [REDACTED] entered the male bathroom inside of the train station. PO Montout followed [REDACTED] into the bathroom. Before [REDACTED] reached the stalls, PO Montout presented himself to [REDACTED]. Because PO Montout did not want the arrest to occur in a "bad area," he asked [REDACTED] "Sir, can you step out?" [REDACTED] stepped out of the bathroom. Once outside of the bathroom, PO Montout and PO Samerson obtained [REDACTED] information and identification, and placed him under arrest for having heroin and other unspecified charges. PO Montout explained to [REDACTED] what was going on, why he was being stopped, and why he was being placed in handcuffs. [REDACTED] was compliant.

PO Montout and PO Samerson began walking back to the command. As PO Montout turned the corner en route to the command, PO Montout observed Sgt. Cao on the floor with [REDACTED]. PO Montout walked over to Sgt. Cao, leaving PO Samerson with [REDACTED]. PO Montout did not know what PO Samerson did with [REDACTED] thereafter, and did not know if she was present to see what then occurred. PO Samerson was not involved in the struggle with [REDACTED].

Sgt. Cao was positioned over [REDACTED] who was lying on his front. Sgt. Cao had his hands in the pits of [REDACTED] arms. PO Montout initially thought [REDACTED] was having some type of health, or specifically mental health, issue, as PO Montout initially thought he heard Sgt. Cao asking [REDACTED] "What's going on? What's going on?" As PO Montout came closer, he could hear Sgt. Cao saying, "Give me your hands, give me your hands." PO Montout then understood that Sgt. Cao was reaching to try to get [REDACTED] arms in a position to handcuff him. Mr.

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## Interview Details

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Pagan's hands were pinned underneath his body, or between his chest and the floor. [REDACTED] was tensed up and was refusing to release his hands.

There was another officer with Sgt. Cao, PO Krmoyan. PO Montout did not remember what actions PO Krmoyan was taking with respect to [REDACTED] or indeed if he aided in the struggle at all. There were other officers standing around the struggle. PO Montout could not identify these officers. PO Montout did not remember if these officers were present when he first saw Sgt. Cao struggling with [REDACTED] or if these officers arrived at a later point. PO Montout did not remember PO Krmoyan or PO Samerson conducting crowd control. PO Montout did not know if PO Krmoyan left the area of the struggle to go into the stationhouse at any point.

PO Montout reached down to try to grab [REDACTED] hands. [REDACTED] continued to refuse to provide his hands. By this time other officers had gathered around. PO Montout requested an asp, saying, "Give me your asp, give me your asp." An officer – PO Montout could not tell which – handed PO Montout an asp. PO Montout took the asp, which was closed, and used it like a rolling pin to apply pressure to one of [REDACTED] ankles. PO Montout had been taught this technique in the Police Academy to gain compliance. PO Montout applied pressure to [REDACTED] ankle for possibly two or three seconds before [REDACTED] then complied. PO Montout did not know if Sgt. Cao was using any part of his body to pin [REDACTED] to the ground. PO Montout was able to grip his right hand. Sgt. Cao gripped his left hand. PO Montout and Sgt. Cao handcuffed [REDACTED] with his hands behind his back. [REDACTED] did not say anything during the struggle, but was breathing heavily.

PO Montout did not remember Sgt. Cao or any other officer communicating any suspicion to PO Montout that [REDACTED] had put something in his mouth or swallowed something. Sgt. Cao did not give PO Montout any instructions as to how to assist in the struggle with [REDACTED]. PO Montout acted independently.

PO Montout did not observe [REDACTED] head make contact with the floor during the struggle, though he noted that he was not present to see how [REDACTED] came to be on the ground. PO Montout never saw any officer stick their fingers or asp into [REDACTED] mouth. No other officer aside from PO Montout ever used or drew their asp during this incident.

PO Montout and Sgt. Cao, with the assistance of other, unidentified officers, then lifted [REDACTED] from the ground and walked him to the command. PO Montout searched [REDACTED] at the front desk. [REDACTED] was considered to be under arrest for criminal sale of a controlled substance. PO Montout conducted a full search of [REDACTED] which typically includes a search of any pockets, bags, or shoes on a person, to check for any illegal items. PO Montout recovered a deck of heroin and a quantity of Xanax pills from [REDACTED]. PO Montout initially thought he recovered these items from two different areas of [REDACTED] body, but after referring to his memo book said he recovered both the heroin and the Xanax pills in the front right pocket of his sweatpants or cargo shorts.

Once PO Montout reached the command, he realized that [REDACTED] was bleeding from his mouth. PO Montout did not know the source of the blood, or what exactly [REDACTED] injury was. PO Montout did not know how [REDACTED] sustained that injury. [REDACTED] complained to PO Montout of pain to his ankle. PO Montout asked [REDACTED] if he felt like his ankle was broken, or if he could walk on it. [REDACTED] replied that his ankle was a little sore but he could walk on it. PO Montout knew that [REDACTED] could walk on the ankle, as he walked [REDACTED] to the holding cell inside of the stationhouse.

An ambulance was called for [REDACTED] both for the injury to his lip and because [REDACTED] needed to take some kind of medication. PO Montout initially thought [REDACTED] may have needed to take methadone, but later said he was not sure if this was the case, and knew only that [REDACTED] had some other kind of medical issue, which he could not recall. There was nothing about [REDACTED] behavior or appearance that led PO Montout to believe he was an EDP. No other officer ever told PO Montout they thought [REDACTED] was an EDP.



**Subject Officer: POLICE OFFICER MANUEL SANCHEZ**

- PO Manuel Sanchez, [REDACTED] years old at the time of the incident, is a Hispanic man who is 5'9" tall, weighs 185 pounds, and has brown hair and green eyes.
- On June 1, 2016, PO Sanchez worked from 12:00 p.m. to 10:47 p.m. He was dressed in plainclothes, assigned to Conditions 2 in Transit District 4, and worked with PO Gandolfi and PO Hossain.

**Memo Book**

On June 1, 2016, at 7:15 p.m. PO Sanchez took his meal. At 7:50 p.m. PO Sanchez was instructed to take the defendant to the hospital by Sgt. Cao. The responding EMS was [REDACTED]. At 8:17 p.m. PO Sanchez was relieved by PO Baez. At 10:47 p.m. PO Sanchez went end of tour.

**CCRB Statement**

PO Sanchez was interviewed at the CCRB on July 27, 2016.

On June 1, 2016, at approximately 7:15 p.m. PO Sanchez was eating his meal in the Transit District 4 stationhouse mealroom, located in the back of the command at TD 04. PO Sanchez did not recall a crowd gathered outside of the command. PO Sanchez was instructed by Sgt. Cao to take the defendant to the hospital, saying "You have to take the defendant to the hospital." PO Sanchez met the defendant at the front desk. The investigation identified this individual at [REDACTED]. When asked what he observed about [REDACTED] PO Sanchez said, "Nothing – he was just standing up, he was cuffed, nothing out of the ordinary I saw." [REDACTED] did not speak to PO Sanchez or complain of any injuries. At this point, the ambulance had already arrived. [REDACTED] "walked on his own power" to the ambulance and hospital, and nobody had to carry him. PO Sanchez was the sole transport officer for [REDACTED]. [REDACTED] did not complain of any difficulty walking on his ankles. PO Sanchez did not recall PO Samerson or PO Montout being at the desk with Sgt. Cao.

PO Sanchez escorted [REDACTED] to the ambulance on street level outside 14th Street – Union Square station. There was no crowd gathered at this time when PO Sanchez escorted [REDACTED]. PO Sanchez did not recall if [REDACTED] requested to take the ambulance. PO Sanchez did not know why the ambulance was called for [REDACTED]. PO Sanchez told the EMTs, "I'm just the escorting officer to the hospital." Later in the interview, PO Sanchez said that EMTs met PO Sanchez and [REDACTED] in the TD04 stationhouse. When asked if the EMTs performed any examination of [REDACTED] in the stationhouse, PO Sanchez said he did not recall.

PO Sanchez rode in the ambulance with EMTs on the way to the hospital. One EMT was driving and one was in the back with PO Sanchez and [REDACTED]. PO Sanchez brought [REDACTED] to the hospital front desk, checked him in and escorted him to the waiting area. PO Sanchez placed [REDACTED] onto a gurney and handcuffed him to it. PO Sanchez spoke with a doctor at the hospital. When asked if he relayed any information regarding [REDACTED] arrest to the medical staff, he said, "Not that I recall, I know there was paperwork, and I just handed everything over to the first person that intakes you when you get to the hospital." PO Sanchez indicated that this paperwork was arrest processing paperwork. PO Sanchez did not recall telling any medical professional that [REDACTED] had attempted to swallow narcotics. When asked if a prisoner being suspected of ingesting narcotics would be a fact that a transport officer would be made aware of, PO Sanchez said, "I'm not sure I mean – I don't know what the procedure is with that." PO Sanchez had no idea why [REDACTED] was transported to the hospital.

PO Sanchez watched [REDACTED] at the hospital to make sure he did not harm himself or staff. PO Sanchez did not have a specific reason why he was concerned [REDACTED] would harm himself. PO Sanchez was relieved at the hospital by PO Baez. The extent of PO Sanchez's interaction with PO Baez was making sure PO Baez received the correct paperwork. PO Sanchez did not learn of any diagnoses at the hospital of [REDACTED]. PO Sanchez at no point learned any of the details of [REDACTED] arrest. PO Sanchez did not recall that any officers indicated that [REDACTED] had swallowed drugs or was an EDP. PO Sanchez could not recall [REDACTED] making any statements of any kind. PO Sanchez did not see any blood or bleeding on [REDACTED] person or clothing.

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## Interview Details

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### Witness:

- [REDACTED] is a [REDACTED] year old white male, standing 5'11" tall, 170 pounds with brown hair and brown eyes.

### CCRB Testimony

On August 19, 2016, [REDACTED] was interviewed at the CCRB.

On June 1, 2016, [REDACTED] was working as an EMT with [REDACTED] when they responded to Union Square subway station for a "Priority 4" call for drugs ingested. [REDACTED] explained that there are nine types of calls for FDNY, with 1-6 being 'lights and sirens' and 7-9 being non-emergencies. Priority 4, the type of call responded to for this incident, is a drug call, either for drugs ingested or drugs taken. As the EMTs approached the Union Square subway station, PO1 approached the EMTs and told them, "We have a perp, possibly swallowed drugs." PO1 escorted the EMTs into the Transit District 4 stationhouse.

Inside the stationhouse was a rearcuffed man with PO2 and PO3 standing next to him. The investigation identified this man as [REDACTED] PO2 as PO Lennoxann Samerson and PO3 as PO Claude Montout. PO Montout told EMTs that [REDACTED] had tried to swallow drugs and had tried to hide drugs in his mouth. [REDACTED] gave PO Montout a glove to process the wet evidence, which was wet from [REDACTED] saliva. [REDACTED] did not touch the evidence himself. Officers did not explain how the drugs got out of [REDACTED] mouth. [REDACTED] could not recall if officers said they tried to remove drugs from [REDACTED] mouth. EMTs waited as PO Samerson and PO Montout processed [REDACTED] belongings and evidence. [REDACTED] did not recall any injury to or blood on [REDACTED] face. [REDACTED] did not recall if [REDACTED] discussed the details of his arrest or how the drugs were removed from his mouth. During this time, another call arrived at Union Square subway station which [REDACTED] left to attend.

[REDACTED] was ambulatory and complained of foot pain. [REDACTED] could not recall the reason for [REDACTED] foot pain and did not know if it resulted from police action. [REDACTED] walked upstairs to the ambulance on street level with the EMTs and another officer. [REDACTED] was unsure who the transport officer was who accompanied the EMTs and [REDACTED] to the hospital and could not recall if the officer was uniformed but believed it was PO Montout. [REDACTED] entered the ambulance. EMTs examined [REDACTED] feet, and there were no visible injuries. [REDACTED] drove the ambulance to [REDACTED] Hospital. [REDACTED] and PO Montout rode in the back of the ambulance. At [REDACTED] Hospital, EMTs transferred [REDACTED] and PO Montout to medical staff. [REDACTED] told medical staff that police had advised them that [REDACTED] had possibly swallowed drugs and that [REDACTED] had complained of foot pain. [REDACTED] did not examine [REDACTED] to see if he had drugs in his mouth, and did not recall the type of drug [REDACTED] had allegedly tried to swallow. The prisoner transport officer was the only NYPD officer with EMTs and [REDACTED] while they were in the hospital.

[REDACTED] was then presented the Ambulance Call Report which [REDACTED] had completed in regards to the incident. The narrative read as follows: "[REDACTED]"

[REDACTED] After being shown the Ambulance Call Report, [REDACTED] recollection was refreshed as to the bilateral ankle pain [REDACTED] had complained of. [REDACTED] still did not recall what was the cause of [REDACTED] bilateral ankle pain. When asked what the passage, "They got to him before he could swallow it," was in reference to, [REDACTED] said, "That the drugs were in his mouth, and they took it out of his mouth, either by force of voluntarily." [REDACTED] could not recall [REDACTED] or any officer discussing that part of the incident.

PO1 – male, white, 5'11", uniformed

PO2 – female, Hispanic, plainclothes

PO3 – male, black, plainclothes

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## Interview Details

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### **Subject Officer: POLICE OFFICER LENNOXANN SAMERSON**

- *PO Lennoxann Samerson, [REDACTED] years old at the time of the incident, is a black female who is 5'6" tall, weighs 160 pounds, and has black hair and brown eyes.*
- *On June 1, 2016 at approximately 7:47 p.m. PO Samerson worked from 12:00 p.m. to 8:35 p.m. She was dressed in plainclothes, assigned to Anti-Crime, and worked with PO Montout and Sgt. Cao.*

### **CCRB Statement**

PO Samerson was reinterviewed at the CCRB on September 13, 2016.

PO Samerson was played the first two minutes of the 911 Dispatch Recording from [REDACTED] arrest from IA# [REDACTED]. PO Samerson identified the first male voice on the recording at 00:02, saying, "Send EMS to 14th Street Union Square for a perp, he appears to be eating some sort of narcotics," as Police Officer Hrachya Krmoyan. PO Samerson identified the second male voice on the recording from 00:15- 00:41, saying "There's gonna be a perp MAO that swallowed drugs" as Sergeant Son Cao. PO Samerson said, "The first voice that raised central sounded like Officer Krmoyan, and then the second voice that came on sounded like Sergeant Cao."

When played the 01:28 – 01:52 section of the recording, PO Samerson could not identify the female voice saying "Call the elevator" or the male voice saying "Spit it out." PO Samerson said that the male voice did not sound like PO Krmoyan, Sgt. Cao or PO Montout. PO Samerson denied that the female voice was her own or that any voice on the recording was hers. PO Samerson did not know if any other female officers responded to the incident or if any other female officers were on duty at Transit District 4. PO Samerson did not know if any female civilians gathered near officers during the incident.





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District Attorney

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[INSERT NAME]  
Assistant District Attorney

[INSERT DATE]

[INSERT D/C INFO]

Re: [INSERT CASE NAME]  
Kings County Dkt./Ind. No. [#####]

In connection with the above-named case, the People voluntarily provide the following information regarding:

**MOS NAME:** CLAUDE MONTOUT

**MOS TAX:** [REDACTED]

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

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**Disclosure # 1:**

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATION(S), DATED 02/27/2019, AGAINST MOS MONTOUT:

ALLEGATION(S):

1. FAIL TO SAFEGUARD DEPARTMENT EQUIPMENT - PARKING PERMIT - RESTRICTED USE
2. MISSING DEPARTMENT EQUIPMENT - PARKING PERMIT - RESTRICTED USE

CASE STATUS: CLOSED ON 07/10/2019

PENALTY: VERBAL OF INSTRUCTIONS

**BASED UPON CCRB DOCUMENTS UP TO DATE THROUGH OCTOBER 13, 2020, THE PEOPLE ARE AWARE OF THE FOLLOWING CCRB SUBSTANTIATED AND/OR PENDING ALLEGATIONS AGAINST THIS OFFICER:**

**Disclosure # 2:**

CCRB CASE: 201605067

REPORT DATE: 06/12/16

[REDACTED]  
[REDACTED]  
[REDACTED]

Eric Gonzalez  
District Attorney  
Kings County